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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/463,082	07/10/2000	CHENICHERI H. NAIR	5-00	5840

23713 7590 03/25/2003

GREENLEE WINNER AND SULLIVAN P C
5370 MANHATTAN CIRCLE
SUITE 201
BOULDER, CO 80303

EXAMINER

WELLS, LAUREN Q

ART UNIT

PAPER NUMBER

1617

DATE MAILED: 03/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicant(s)	Applicant(s)	
	09/463,082	NAIR ET AL.	
	Examiner	Art Unit	
	Lauren Q Wells	1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-79 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 31-79 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 31-79 are pending. The Amendment filed 1/27/03, Paper No. 19, amended claims 31, -33, 41-43, 50, 53, and 61-63, and added claims 64-79.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/27/03 has been entered.

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 31, 33-35, 61, 64, 68, 71-72, drawn to a method for the in vivo detection of fibrin.

Group II, claim(s) 32, 36-40, 54-60, 62, 65, 69, 73-75, drawn to a method for the detection of fibrin in a sample containing fibrin.

Group III, claim(s) 41-49, 63, 66, 70, 76-77, drawn to a detectable reagent.

Group IV, claim(s) 50-53, 67, 78-79, drawn to a method of targeting a drug to a localized fibrin site in vivo.

The inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

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The technical feature linking groups I-IV appears to be that they all relate to a detectable reagent comprising discrete particle dispersed in a carrier, diluent, excipient, adjuvant, wherein said particle comprise a detectable marker encased in at least two layers of carbon.

However, Burch et al. (1986) teach Technegas (a plurality of discrete particles comprising a plurality of coating layers of carbon which completely enclose a minute crystal of ^{99m}Tc metal) in an aqueous aerosol (carrier).

Therefore, the technical feature linking the inventions of groups I-IV does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art.

The special technical feature of Group I is considered to be a method for the in vivo detection of fibrin comprising administering to a patient a detectable reagent comprising discrete particle dispersed in a carrier, diluent, excipient, adjuvant, wherein said particle comprise a detectable marker encased in at least two layers of carbon.

The special technical feature of Group II is considered to be a method for the detection of fibrin in a sample containing fibrin comprising supplying to said sample a detectable reagent comprising discrete particle dispersed in a carrier, diluent, excipient, adjuvant, wherein said particle comprise a detectable marker encased in at least two layers of carbon.

The special technical feature of Group III is considered to be a detectable reagent comprising discrete particle dispersed in a carrier, diluent, excipient, adjuvant, wherein said particle comprise a detectable marker encased in at least two layers of carbon.

The special technical feature of Group IV is considered to be a method of targeting a drug to a localized fibrin site in vivo comprising administering to a patient a detectable reagent comprising discrete particle dispersed in a carrier, diluent, excipient, adjuvant, wherein said particle comprise a detectable marker encased in at least two layers of carbon.

Accordingly, Groups I-IV are not so linked by the same or a corresponding special technical feature as to form a single general inventive concept.

A telephone call was made to Donna Ferber on 3/18/03 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37

CFR1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lauren Q Wells whose telephone number is (703) 305-1878. The examiner can normally be reached on M-F (7-5:30), with alternate Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on (703)305-1877. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

lqw
March 20, 2003


SREENI PADMANABHAN
PRIMARY EXAMINER
3/23/03